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**Date:** Wednesday, March 28, 2018 11:42AM  
**Subject:** Overton Matter - Request for Extension of Response Time

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Your Honor:

My name is Parker Miller, and I represent Frankie Overton and Scott Graham in what has been referenced as the Overton Litigation in the Alabama Circuit Court of Jefferson County.

On March 12, 2018, FCA US LLC filed (a) a Motion to this Honorable Court seeking to reopen the Chapter 11 Case of Old Carco LLC to interpret the Court's Sale Order and (b) a Motion seeking to enforce the Sale Order in an effort to bar or dismiss the Plaintiffs' claims. The Plaintiffs received these filings on March 14, 2018, and since that time, have been in the process of interviewing bankruptcy counsel to assist in their response. Currently, the firm Cole Schotz is in the process of clearing conflicts, and if retained, will need to be brought up to speed to assist the Plaintiffs with their response to FCA's Motions.

The deadline to respond to FCA's Motions is April 3, 2018. We respectfully request a brief extension of time to respond to FCA's Motions given the above-referenced circumstances. We would propose the Plaintiffs response be due on May 4, 2018; FCA's replies by Friday, May 18, 2018; and a hearing date to be determined based on the availability of the parties and this Honorable Court.

In further support, I have attached a letter for your review that provides further context, including our previous request to FCA for an extension.

We sincerely appreciate your attention to this.

With best regards,

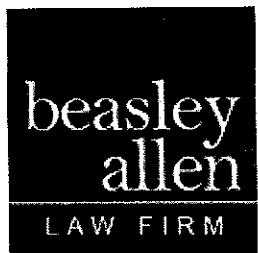
Parker

| J. Parker Miller

**MEMO ENDORSED**

*The Court does not grant non-consensual adjournments or extensions requested in letters or emails. If the request is not consensual, counsel should make a motion.  
So ordered: 3/28/18*

*Sgt  
WOB*



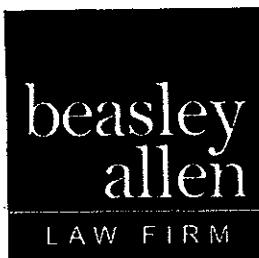
ATLANTA | MONTGOMERY

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Attachments:

Letter to Judge Bernstein.pdf      Exhibit A.PDF

Exhibit B.PDF



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March 28, 2018

Honorable Stuart M. Bernstein  
United States Bankruptcy Judge  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green  
New York, New York 10004  
[bernstein.chambers@nysb.uscourts.gov](mailto:bernstein.chambers@nysb.uscourts.gov)

Re: Request for Extension of Time to Respond to Doc. 8508 and 8510.  
Case No. 09-50002 (SMB)

Your Honor:

My name is Parker Miller, and I represent Frankie Overton (on behalf of Sue Ann Graham) and Scott Graham (on behalf of his minor son, J.G.), against FCA US LLC, amongst others, in what has been referenced as the Overton litigation in the Alabama Circuit Court of Jefferson County.

On March 12, 2018, FCA US LLC filed (a) a Motion to this Honorable Court seeking to reopen the Chapter 11 Case of Old Carco LLC to interpret the Court's Sale Order and (b) a Motion seeking to enforce the Sale Order in an effort to bar or dismiss the Plaintiffs' claims. The Plaintiffs received FCA US LLC's filings on March 14, 2018. The Plaintiffs' response to both motions is currently due on April 3, 2018. Since receiving FCA's filings, the Plaintiffs have been in the process of interviewing bankruptcy counsel to assist in their response, and will potentially engage the law firm Cole Schotz.<sup>1</sup>

Given these circumstances, the Plaintiffs have sought FCA US LLC's consent to a reasonable extension of time of 30 days to respond its motions. FCA, however, is not amenable to an extension unless the Plaintiffs agree to stay all proceedings in the state court until all motions are decided in Bankruptcy Court. Importantly, FCA has not filed a motion in the state court to stay the proceedings, as it would be required to do to obtain a stay without our consent. Rather, as recent as March 22, 2018, FCA informed the state court that it would not seek a stay of the proceedings unless this Court grants its motion to reopen the Chapter 11 Old Carco Case. (Ex. B at 4-5).

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<sup>1</sup> Cole Schotz is in the process of clearing conflicts, and if retained, will need to be brought up to speed to assist the Plaintiffs with their response to FCA's Motions. If Cole Schotz is not retained, the Plaintiffs will likely seek to engage of other bankruptcy counsel.

The Plaintiffs cannot agree to a stay of proceedings in the state court case for the following reasons:

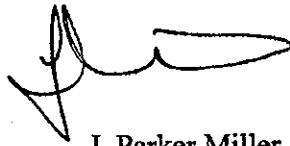
- The Plaintiffs cases are based entirely on state law matters. (Ex. A at 12) The Plaintiffs have already been prejudiced by the months of delay in their litigation from FCA first seeking, and failing to obtain, transfer from the Northern District of Alabama to the Southern District of New York.
- One of the Plaintiffs, Scott Graham, maintains a case that has no plausible bearing on the Chapter 11 Old Carco Case because it clearly seeks compensation for damages permitted by the Court's Sale Order (whether based on pre or post bankruptcy conduct).<sup>2</sup> The Northern District of Alabama concluded as much when it found that Scott Graham's claims "do not fall within the scope of the Bankruptcy Court's Orders." (Ex. A at 15)
- The Plaintiffs have already granted FCA US LLC multiple extensions of time to respond to discovery in state court. This discovery has a direct bearing on both Frankie Overton and Scott Graham's state law claims. Any delay in discovery will only further delay the prompt resolution of the state court matter in the Circuit Court of Jefferson County.

The Plaintiffs, therefore, respectfully request this Honorable Court extend the period of time to respond to FCA US LLC's Motions to May 4, 2018; FCA's replies by Friday, May 18, 2018;<sup>3</sup> and a hearing date to be determined based on the availability of the parties and this Honorable Court.

With best regards, I am,

Very truly yours,

BEASLEY, ALLEN, CROW,  
METHVIN, PORTIS & MILES, P.C.



J. Parker Miller

JPM/cw

cc: J. Cole Portis  
Stephanie Monplaisir  
Brian D. Glueckstein

<sup>2</sup> In addition, as will be shown in the Plaintiffs' briefing before this Honorable Court, the unique nature of Alabama's Wrongful Death Statute entitles Frankie Overton to a recovery of damages notwithstanding the Court's Sale Order.

<sup>3</sup> These dates were proposed by FCA US LLC's counsel Brian Glueckstein during the parties' discussions.